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MAY 27 2005

OFFICE OF PETITIONS

In re Application :
Bernard, et al. :
Application No. 09/955,415 : PATENT TERM ADJUSTMENT
Filed: September 18, 2001 :
Dkt. No.: MCE04-12 :

This is a decision on the "APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed March 15, 2004.

The application for patent term adjustment ("PTA") under 37 CFR
1.705(b) is **DISMISSED**.

Applicants request that the Determination of Patent Term
Adjustment be corrected from 125 days as indicated on the
Determination of Patent Term Adjustment mailed March 3, 2004 to
316 days.

A review of the application history reveals that an adjustment
under 37 CFR 1.702(a)(1) of 232 days can be attributed to the
Office. In accordance with 37 CFR 1.703(a)(1), the adjustment
began November 19, 2002, the day after the date that is fourteen
months from the date the application was filed, and ended July
8, 2003, the date the non-final Office action was mailed.

A further adjustment under 37 CFR 1.702(a)(2) of 90 days can be
attributed to the Office. In accordance with 37 CFR 1.703(a)(2),
the adjustment began December 5, 2003, the day after the date
that is four months from the date a response to the non-final
Office action was filed, and ended March 3, 2004, the date of
mailing of Notice of Allowance.

In accordance with 37 CFR 1.704(c)(8), however, the adjustment
of 322 days is reduced 191 days for applicants' failure to
engage in reasonable efforts to conclude prosecution. The
reduction began August 5, 2003, the day after the date that an
initial response to the non-final Office action was filed, and
ended February 11, 2004, the date of submission of the
information disclosure statement. The reduction is pursuant to

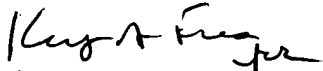
37 CFR 1.704(c)(8). Nothing in the record reflects that the supplemental papers (IDS submissions on September 24, 2003 and February 11, 2004) were expressly requested by the examiner.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 125 days as indicated in the Determination of Patent Term Adjustment mailed March 3, 2004.

The required application fee of \$200.00 has been charged to Deposit Account No. 23-0804.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation